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1 SENATOR FRANCIS, JR: Were you a signatory to the
2 certification of the November election of 2016?

3 MS. MOSES: Yes I was.

4 SENATOR FRANCIS, JR: How do you now reconcile your
5 concerns about the fact that you believe that there was some
6 question as it pertains to Kevin Rodriquez' residency; how
7 do you reconcile that now that you have already certified
8 it?

9 MS. MOSES: Right. During the 2016 election it was
10 never brought to my attention that there were concerns about
11 Mr. Rodriquez' residency. The Board of Elections does not
12 vet candidates. We do not vet candidates at all. We
13 received the candidate list after vetting has been completed
14 by the election system which is headed by the Supervisor of
15 Elections.

16 When the document came to the Board of Elections I
17 had at that time no thoughts about whether or not Mr.
18 Rodriquez was eligible or not eligible. It wasn't until
19 certification and thereafter when questions started being
20 raised and things in hindsight started coming up including
21 the fact that he worked for HOPE and that he was on contract
22 for HOPE. So it wasn't until after the fact that I thought
23 about residency issues with Mr. Rodriquez.

24 SENATOR FRANCIS, JR: Let me ask you another
25 question before my time run out. In respect to your

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1 testimony that all along you felt that he was living on St.
2 Thomas, but he was not a resident of St. Thomas; the fact
3 that you had sent his checks as well as the documents that
4 you have in terms of his address was always a Nashville
5 address, you still don't believe that he was a resident? He
6 had a residence of Nashville and not the Virgin Islands
7 based on your testimony.

8 MS. MOSES: The conversations, the thoughts leading
9 up to that did not come up until after the election.

10 TIMEKEEPER: Time.

11 SENATOR FRANCIS, JR: In conclusion Madam Chair.
12 What do you truly say this evening in terms of whether or
13 not you believe that Kevin Rodriquez have residency here in
14 St. Thomas and not Tennessee?

15 MS. MOSES: I believe that at the time his
16 residence was Tennessee and not the Virgin Islands. He was
17 here specific to a contract, to provide services. He was not
18 here as a resident bona fide in the Virgin Islands or in the
19 Territory.

20 SENATOR FRANCIS, JR: And still you certified the
21 elections on November 22nd --

22 MS. MOSES: I was a part of the body that did
23 certify that election. And I take full responsibility for
24 what occurred at that time.

25 SENATOR FRANCIS, JR: Thank you very much. Thank

1 you Madam Chair. Thank you for your responses.

2 SENATOR RIVERA-O'REILLY: You're welcome Senator
3 Francis. I'd like to ask the testifiers to please keep your
4 microphone in front of you. It's a very sensitive and also
5 very expensive piece. So if you break it, you'll have to
6 replace it.

7 I would now recognize Senator Blyden for his five
8 minutes.

9 SENATOR BLYDEN: Thank you Madam President. And
10 good evening Ms. Moses, Ms. Sarauw. Thank you for your
11 testimonies. Ms. Moses in your testimony you spoke in
12 reference to you not believing he was a resident while he
13 was working for you in the first year. Why would you say
14 that? I understand he was a contracted employee, yes. And
15 in the contract it was based on performance and a task,
16 correct? Not hourly in terms of punching a clock but, why
17 did you say, you would say he's not a resident? What gave
18 you that point of view, per se?

19 MS. MOSES: In 2012 I asked Mr. Rodriquez to come
20 back to St. Thomas to provide a service at HOPE Inc. Mr.
21 Rodriquez was not on St. Thomas when the request was being
22 made. He was in Tennessee. The contract was specific to
23 duties specific to building a men's health program very
24 similar to a women's health program. Once the task was
25 completed and the contract was over, then his duties and

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1 time at HOPE would have been over as well.

2 SENATOR BLYDEN: Okay very well. Also what was put
3 on record earlier is Mr. Rodriquez and the other young lady
4 Sepio who worked for HOPE stated you refused to change the
5 address on his checks from Tennessee to the Virgin Islands.
6 Is that an accurate statement?

7 MS. MOSES: I don't believe so. Mr. Rodriquez was
8 never a full-time employee; so we don't have documents that
9 would change an address for a contractor. You're a
10 contractor and whatever address you give, that's what on the
11 contract. The documents that are front of you which is the
12 Final Check Notice clearly states Mr. Rodriquez' address as
13 Tennessee. It has Mr. Rodriquez' signature on the page as
14 well as witnesses. I am not one of the signatories on this
15 page that Mr. Rodriquez, his attorney at the time, Mr.
16 Morales and other folks signed. And this was in 2015.

17 In 2014, there was an extension of contract between
18 HOPE Inc and Mr. Rodriquez again on this document. Mr.
19 Rodriquez signed stating that his address was Nashville,
20 Tennessee. So I don't know -- Mr. Rodriquez hovers over me.
21 I cannot force somebody to sign a document that is not true.
22 And I know that I am not going to sign a document with the
23 wrong address on it regardless of what the document is. If
24 it has my name, it needs the correct address.

25 SENATOR BLYDEN: So clarification. So you're

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1 stating on the record that when his contract was renewed the
2 second time, his address was Tennessee?

3 MS. MOSES: On the extension of contract which I
4 submitted as part of my testimony it states by and between
5 Helping Others in a Positive Environment - HOPE Inc - Number
6 57 Dronningens Gade, St. Thomas V.I. 00802 and Kevin
7 Rodriquez 4956 Indian Summer Drive, Nashville Tennessee
8 37207. This was dated January 6th, 2014.

9 SENATOR BLYDEN: Very well. Thanks for your
10 responses. And I guess Mr. Rodriquez will respond I guess
11 when he's given an opportunity to do so along with his
12 attorney.

13 Ms. Sarauw your treatment by the Board of Elections
14 I'm glad you put that on the record. It needs to be noted
15 when folks are elected or have a duty to fulfill especially
16 when you're a public servant, you should do everything in
17 your power to make sure you serve the public and do it with
18 dignity and with respect. So I'm glad you put that on the
19 record.

20 You made a statement in your testimony in terms of
21 smoking mirrors, et cetera. Can you expound on that for me
22 please, what you meant by that?

23 MS. SARAUW: Really and truly when the challenge
24 was filed, the issue was really residency and we've
25 deflected to things that are emotional; we've deflected to

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1 jurisdiction. And the real matter of why we're here is
2 because under penalty of perjury --

3 TIMEKEEPER: Time.

4 MS. SARA UW: -- a document was signed in January
5 2016, again in May of 2016 that I have lived nowhere else
6 but in the state of Tennessee. So that's what I meant by
7 smoking mirrors.

8 SENATOR BLYDEN: Very well. Thank you very much
9 Madam President for the time.

10 SENATOR RIVERA-O'REILLY: You are welcome Senator
11 Blyden. Senator Hansen, point of information.

12 SENATOR HANSEN: Thank you. Through the Chair to
13 Ms. Moses. Ms. Moses wasn't your testimony earlier today or
14 tonight that you knew as a fact that Mr. Kevin Rodriguez
15 lived on St. Thomas?

16 MS. MOSES: Correct.

17 SENATOR HANSEN: Thank you. Thank you Madam
18 Chair.

19 SENATOR RIVERA-O'REILLY: You're welcome. Senator
20 Vialet you're recognized.

21 SENATOR VIALET: Thank you and good night once
22 again. Ms. Moses how much hours was Kevin working every two
23 weeks, 80 hours?

24 MS. MOSES: I would say close to -- I would say he
25 definitely was in the office more times than not. So I would

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1 say close to 80 hours yes, or more.

2 SENATOR VIALET: So then he was a full-time
3 contractual worker?

4 MS. MOSES: He was on contract with HOPE.

5 SENATOR VIALET: He was a full-time contractual -- a
6 full-time employee is deemed as somebody that works 80
7 hours. If he's working close to 80 or more than 80, then he
8 was a full-time contractual worker. However, it seems like
9 the more testimony you get, the more confusing everything
10 is. Because you are a member of the board. You knew that
11 he was a resident of Tennessee yet you did nothing. You
12 certified the election. You didn't let them know that you
13 had documentation in which he had filled out a 1099 form, in
14 which he had signed a contract stating that his address was
15 Tennessee. So it is clear that you are part of the problem;
16 very very clear. Because you did not go to the board and
17 say I have documentation that show that he is using a
18 Tennessee address.

19 Then we have a situation where Mr. Rodriquez came
20 down, he got a job for sixty thousand dollars. Within two
21 years he's bad mouthing HOPE that gave him the job for sixty
22 thousand dollars when he didn't have any job. Tito Morales
23 is on the board. He said HOPE is a waste of time. Somebody
24 else is working for the company; they say they don't know
25 what goes on there; the person is mean. That's total

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1 dysfunction from everything that I'm hearing. I'm just like
2 in awe as to what is going on.

3 And then he say I filed my taxes in Tennessee. No
4 I file it in St. Thomas. I filed three taxes at the same
5 time. No I filed two at one time. I filed it in March. I
6 really don't remember when I filed it. I did Turbo tax. I
7 express it down; I email it; I fax it. What is going on?

8 And then we reach to the point where we then say,
9 well perhaps the Chair of the Board Mr. Watlington is
10 causing issues. But if Mr. Watlington run tomorrow for the
11 Board of Election, he's going to run first on the St. Thomas
12 District. And he runs well every single time. So something
13 wrong. Something is wrong. There have been so much
14 conflicting testimony that to really sit here and say I know
15 for sure what went on. You can't get a straight story from
16 yourself Mr. Rodriguez. You can't get a straight story from
17 Ms. Moses. You can't get a straight story from your wife
18 that testified. She's telling you, you sent all three the
19 same time. The dates are different. So you did three tax on
20 Turbo tax and then you put three different dates. You put
21 one January 20th. You put one January 24th. You put the
22 next one March 18th. I don't remember for sure if I filed
23 it. What do you remember? You say you barely remember your
24 name. Why do you remember? You don't remember if you filed
25 it in March or January? You don't remember where you sent

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1 the document? I am just totally perplexed as to the
2 answers. And it seem like answers are forthcoming by
3 convenience. And convenience don't work. The issue is
4 whether or not you perjured yourself with the statements
5 that you made.

6 And I know my good ICM partner from St. Croix know
7 that you can't sign something under penalty of perjury and
8 then change and say it was a mistake. But you know what?
9 Everything going to be resolved, you know, because the
10 decision that is made by this Body is going to set
11 precedence. And when it does nobody don't quarrel. Don't
12 come back and quarrel after because we're making a decision
13 in reference to what took place not what who like or who
14 don't like this or who running around. No. You're making
15 it on the facts. And if you stray away from that, that's
16 alright. It's going to be in the annals of history as to
17 the decision that was made. I know what I'm going to make.

18 Ms. Sarauw, so you filed a petition and the Chair
19 of the board throw your petition on the side?

20 MS. SARAUW: That's correct.

21 SENATOR VIALET: He said he referred to you as a
22 Pion?

23 MS. SARAUW: He speaks to us as Pions, but he calls
24 me the beauty queen, never by my name. So I'm not sure what
25 to think of that.

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1 SENATOR VIALET: You know a lot of times we want
2 change in the Virgin Islands, but change is so hard because
3 of the players. And we continue to revert back to a lot of
4 old practices. Thank you Madam Chair.

5 SENATOR RIVERA-O'REILLY: You are very welcome. I
6 totally agree with your sentiments. Change is hard. But my
7 favorite is that change is in fact possible. And change
8 happens unfortunately or maybe fortunately one funeral at a
9 time.

10 Senator Neville James you're now recognized for
11 your five minutes.

12 SENATOR JAMES: Thank very much Madam Chair and I
13 want to reiterate, you did a tremendous job in the chair
14 today. And tomorrow we will put on the record why that was
15 and the public is deserving of that. I want to say a late
16 good night to Ms. Moses and Senator-Elect Sarauw. Good
17 night.

18 MS. SARA UW: Good evening.

19 SENATOR JAMES: It late. "Cause we got two
20 Senator-Elect there. According to the board, it got two
21 Senator-Elect. That's what the board say. That's the reason
22 why they can't certify the second election. That's what
23 they said. I dare anybody to refute what I just said. The
24 board say we can't certify Senator-Elect Sarauw because we
25 already have another Senator-Elect in Kevin Rodriquez.

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1 That's what the board said.

2 I aint refuting ah you position that ah you believe
3 in ah you heart Kevin Rodriquez is the true Senator-Elect.
4 You're entitled to believe that. I aint fighting with ah
5 you. I just telling you what the board said; that's all.
6 Okay?

7 I know it's our job to be politically correct.
8 But I'm going to be politically incorrect now. If Janelle
9 Sarauw had not won the Special Election and a Democrat had
10 won the Special Election, they would have certified the
11 election. That's my opinion. That's what I believe. I
12 could be wrong. And the reason why I believe that, is
13 because when we gave the appropriation, we made the
14 appropriation available, at no time did the board say we are
15 conducting the election under protest. Think about that.
16 Because you could do that. We were asked, suggested by our
17 legal counsel that we conditionally seat Kevin Rodriquez
18 which is the same thing like as a protest. You're doing
19 something with a condition and we didn't do it.

20 Now I want to correct something that been going on
21 here all day. They've been asking where are the charges?
22 The charges are on Page 12, 13, 14 and 15 of the Third
23 Circuit court ruling. It say on Page 12, "After the
24 Legislature convenes, however, the power to determine a
25 winning candidate's eligibility to serve shifts to the

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1 Legislature".

2 Page 13. "This prevents courts from interfering
3 with the Virgin Islands Legislature's determination of the
4 qualifications of its members including whether they meet
5 the residency requirement". Determination again.

6 Page 14. This under plain language of 6G, "Once the
7 32nd Legislature convene, it alone had the authority to --
8 the operative word, "determine whether Rodriquez possess the
9 qualifications to be a member and was thereby entitled to
10 take the oath and be seated.

11 Page 15. "Only the 32nd Legislature may judge
12 whether Rodriquez satisfies the requirements set forth in 6B
13 including the residency requirement. But now that the 32nd
14 Legislature has convened, only that Body can determine the
15 qualification of its members".

16 You know who the charge was given to? The charge
17 was given to the Legislature by the Third Circuit. So this
18 thing 'bout how we aint charge Kevin with nothing so Kevin
19 -- no. The Third Circuit said in its closing statement; it
20 look like a lot of people didn't want to read it. "With
21 this ruling the 32nd Legislature should fulfill its
22 statutory obligation to judge Rodriquez' qualification for
23 membership in the Legislature". The charge was given to the
24 Legislature. I know it's not pronounced that way because
25 it's supposed to be Legislature.

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1 We were given a charge and we're dealing with it.

2 So this notion that aint get no charge and all that. I mean
3 please, please. And then we're selective about who we want
4 to be - acting like when they say something it's gospel now.
5 They going to turn on them in a month and a half. It's
6 historical here. I love you today. Don't tell me nothing
7 tomorrow. You know. You're got to use history. Let history
8 be your guide.

9 So I just want to let both, apparently winning
10 candidates, know that the biggest loss is the fact that the
11 District of St. Thomas/St. John has been with six senators
12 instead of seven since Monday January 9th, 2017. I thank you
13 very much Madam Chair. I signing off. Good night.

14 SENATOR RIVERA-O'REILLY: Thank you Senator James.
15 Senator Forde?

16 SENATOR FORDE: Thank you Madam Chair. It's been a
17 long day. But as my Colleague would say the wounds of
18 governance. Anyway today has certainly not been a waste.
19 This is a learning experience for all of us. And I share in
20 my Colleague's sentiments when he had said that this problem
21 got even more and more compounded because there are times
22 that we are certainly getting conflicting stories. And the
23 more we dig into things is the more is being revealed. And
24 so it's an awesome task and I don't know if we will ever get
25 a winner out of this when we do have to come and make the

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1 decision. But one way or the other a decision we will have
2 to come to.

3 We have to make sure that individuals particularly
4 in the St. Thomas/St. John District are not disenfranchised.
5 And the process is certainly not easy. And I want to differ
6 a little with one of my Colleagues when they talk about the
7 process being a waste of time or when they talked or
8 questioned the process which we are engaging in. I think
9 that the fact that the process is being questioned it
10 certainly implies that there is an issue that needs to be
11 addressed. And I think that it's a legitimate concern.

12 Now I will put a couple of questions, however
13 though. Ms. Moses you engaged in a contract with Mr.
14 Rodriquez for one year - sixty thousand dollars.

15 MS. MOSES: Correct.

16 SENATOR FORDE: You extended that for another year
17 and then had a further extension?

18 MS. MOSES: Yes.

19 SENATOR FORDE: This really sounds to me like a
20 relationship went bad. Why did you extend the relationship?
21 If he was charged with performing a duty and you were
22 specific; it's implementing a men's health program. If he
23 had not done so, why would you extend his contract for yet
24 another year and even months after that?

25 MS. MOSES: I would like to read into testimony a

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1 text message that I received from Mr. Rodriguez on Friday
2 January 16th.

3 SENATOR FORDE: Is this going to be -- Ms. Moses my
4 time is limited so I want to make sure. Is this going to be
5 an answer to my question?

6 MS. MOSES: It is. It is. It is. And it will
7 answer Senator Smith's question.

8 SENATOR FORDE: Well no I don't want you answer
9 Senator Smith question.

10 MS. MOSES: It will answer three Senators'
11 questions.

12 SENATOR FORDE: Go ahead.

13 MS. MOSES: Friday January 16, 2015 Mr. Rodriguez
14 text me and this is what the text read. "I would like for
15 you to find compassion in your heart and grant me three
16 months employment at HOPE. I have always been loyal and
17 committed to HOPE's mission. The three months should be
18 realistic goals relative to developing a program similar to
19 "Sister". One, the name should be "Brother". Two. Conduct
20 four men's health sessions: Two sessions at UVI and two
21 sessions in the community.

22 SENATOR FORDE: But Ms. Moses I got to cut you off.
23 My time is running. That's not answering my question. I
24 wanted to know why did you extend his contract if he did not
25 fulfill it the first year?

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1 MS. MOSES: The end of this will tell you.

2 SENATOR FORDE: I don't have enough time for that.

3 Let me move on. Did Mr. Rodriguez not make a request of you
4 to change his address on his 1099 forms?

5 MS. MOSES: I do not handle 1099 forms. So let me
6 just clarify that.

7 SENATOR FORDE: But you are his boss.

8 MS. MOSES: The fiscal officer is who deals with the
9 1099 forms.

10 SENATOR FORDE: Who does the fiscal officer report
11 to?

12 MS. MOSES: The fiscal officer reports to me.

13 SENATOR FORDE: So if you comes directly to you,
14 why couldn't you have said --

15 MS. MOSES: It would have been changed. If he had
16 come to me for the change --

17 SENATOR FORDE: You're saying he did not come to
18 you?

19 SENATOR RIVERA-O'REILLY: One at a time please.

20 MS. MOSES: If he had come to me for the change --
21 had he come to me for the change, it would have been changed
22 just just like everybody else's. They would have been sent
23 to the fiscal officer for the change to be made.

24 SENATOR FORDE: So he did not come to you.

25 MS. MOSES: Not that I know of. And in addition to

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1 that I would like to say in the file that I have, I have no
2 fiscal documents for Mr. Rodriquez.

3 TIMEKEEPER: Time.

4 MS. MOSES: All financial documents are handled by
5 the fiscal officer and the auditors.

6 SENATOR FORDE: My time has been called.

7 SENATOR RIVERA-O'REILLY: Thank you Senator Forde.
8 I think that we should allow Ms. Ivy Moses to continue to
9 reading the text into the record since she began.

10 MS. MOSES: Okay. And the text further states,
11 "This will be a win/win for both of us. You can be tough at
12 times; however there a compassionate side in you that would
13 allow my request to be granted. I would like to be paid
14 retro from January 6. I am swallowing my pride as a man and
15 asking for your consideration. God Bless. KRod. God is good.

16 My response to Mr. Rodriquez was, "Huh"? You
17 didn't work from January 6. How could you ask me to pay you
18 from January 6. He goes and states. Does mean I'm
19 quoting. "Does mean you will sleep on it? KRod God is good.
20 "Does it mean you will sleep on it"? KRod God is good.

21 This is the request that was being fulfilled. And
22 it's also stated in the -- or should have been stated in
23 the extension of the contract.

24 SENATOR RIVERA-O'REILLY: You said on the record
25 that you considered his employment a contract; that he was a

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1 contract, a person providing a service under a contract.

2 MS. MOSES: Correct.

3 SENATOR RIVERA-O'REILLY: Did you require Mr.
4 Rodriquez to have a business license to engage in consulting
5 services?

6 MS. MOSES: No. We had several contractors at the
7 agency and we gave all of them the 1099 forms.

8 SENATOR RIVERA-O'REILLY: Very well. We will now
9 proceed with. Senator Hansen we're going to proceed now
10 with the Senate President for his five minutes. Mr.
11 President -- Go ahead Senator Hansen.

12 SENATOR HANSEN: Thank you Mr. President.
13 You know what? Proceed. If she wants a kangaroo court let
14 her go ahead. Thank you Mr. President, the real President.
15 Thank you.

16 SENATOR JACKSON: Good evening testifiers: Ms.
17 Moses, Ms. Sarauw. The testimony that you provided this
18 evening Ms. Moses is most disturbing in that the issue
19 relating to the documents from HOPE that did list or did
20 inscribe that Mr. Kevin Rodriquez address was a Tennessee
21 address while employed at HOPE, when did that surface within
22 the litigation or the Board of Elections deliberation, if
23 any?

24 MS. MOSES: It never came up with the Board of
25 Elections. I was subpoena to court. I brought the documents.

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1 And I read the documents I believe into record. I have not
2 withheld --

3 SENATOR JACKSON: Which court?

4 MS. MOSES: District. I have never withheld
5 information asked to me about documents of Mr. Rodriquez at
6 HOPE.

7 SENATOR JACKSON: So when you --

8 MS. MOSES: Oh Superior Court I apologize. Superior
9 Court.

10 SENATOR JACKSON: Okay. So the Superior Court. Were
11 you requested to bring documents from HOPE at that time?

12 MS. MOSES: I was subpoenaed, yes.

13 SENATOR JACKSON: And during the vetting of the
14 issues relating to Ms. Berry's inquiry to the Board of
15 Election, were you part of that discussion?

16 MS. MOSES: When the documents were delivered to
17 Attorney Watlington that Ms. Sarauw is making reference to,
18 I don't believe that I was present. I don't believe that I
19 was present at that time.

20 SENATOR JACKSON: Okay. The documents arriving is
21 one.

22 MS. MOSES: Right.

23 SENATOR JACKSON: The documents being reviewed by
24 the board, were you part of that process?

25 MS. MOSES: I was.

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1 SENATOR JACKSON: And at no time did you make
2 mention that you were in possession of a document or
3 documents that did note or did have an inscription that
4 Senator-Elect Rodriquez' address was a Tennessee address
5 during his employment?

6 MS. MOSES: When the discussion came up at that
7 point it had become a court issue. And it was brought up.
8 I have never hid the fact that Mr. Rodriquez was on contract
9 with HOPE.

10 SENATOR JACKSON: But did you bring it to the
11 attention of any of the board members in any discussion?

12 MS. MOSES: I have.

13 SENATOR JACKSON: And what was their response?

14 MS. MOSES: I don't believe that -- I can't
15 remember exactly what whose response was. At the time of
16 bringing the information up it was in discussion specific to
17 the court case. And I was subpoenaed to the court case. I
18 delivered the information that I had. I wasn't subpoenaed
19 as a board member. I was subpoenaed as I was invited here
20 today as a representative of HOPE.

21 SENATOR JACKSON: Madam Chair and Colleagues I
22 think we should subpoena the entire board and bring them to
23 this Body. Because it's very evident that the discussions
24 that we've had this evening, the inconsistencies, the
25 irregularities, the discrepancies, deserves a response. And

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1 the letter that we received from Attorney Watlington is most
2 disgusting in that the disrespect for this Body as a former
3 member of this institution and likewise his position that
4 this was an issue that should be heard by the 32nd
5 Legislature in determining its member requires that the
6 Board of Election had also an opportunity to resolve an
7 issue that we're here for this evening.

8 As a result of that, we're here. Both the actions
9 of the board and both the actions of Mr. Kevin Rodriguez in
10 Tennessee and likewise your implications that even during
11 his tenure here in St. Thomas at HOPE that the documents
12 that he presented or provided for his address had a
13 Tennessee address that speaks to residency.

14 TIMEKEEPER: Time.

15 SENATOR JACKSON: So thank you very much Madam
16 Chair.

17 SENATOR RIVERA-O'REILLY: Yes you may Senator
18 Hansen. Proceed.

19 SENATOR HANSEN: I'm just trying to get a
20 clarification on what we are trying to accomplish here all
21 day and particularly tonight; so I can know what to follow.
22 I still believe there has not been a charge, in other words
23 an accusation.

24 SENATOR RIVERA-O'REILLY: What is your point of
25 information directed to?

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1 SENATOR HANSEN: My point of information relates to
2 are we trying to find the Board of Election as a reason for
3 us not acting? First it was the Court. Now it's the board.
4 It is the Legislature's responsibility. I don't know why are
5 we trying to find a reason, another layer to avoid acting.
6 So I'm trying to figure out. You know, I need to know. You
7 see what time it is? I need to know what it is we doing.
8 If we're trying to hide behind something; the Attorney
9 General done been here and he run gone. Okay? Now you're
10 trying to use the Board of Election.

11 SENATOR RIVERA-O'REILLY: Okay Senator I think
12 you've made your point.

13 SENATOR HANSEN: All the courts say it's the
14 Legislature including our legal counsel.

15 SENATOR RIVERA-O'REILLY: Okay you've made your
16 point Senator. You've made your point. Thank you very much.
17 We are now going to allow for Senator-Elect Kevin Rodriquez
18 and his counsel Attorney Jackson to address the Body by
19 placing on the record any closing comments that they desire,
20 as they desire.

21 ATTORNEY JACKSON: If I may I'd like to speak at
22 this time and allow Senator-Elect Rodriquez to close the
23 session.

24 I'd like to thank the Legislature for allowing us
25 to have this opportunity to address the qualifications of

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1 Senator-Elect Rodriquez to be a member of the 32nd
2 Legislature. We submit that the testimony and evidence
3 submitted here today is overwhelming. There's no question
4 about it. He clearly met the qualifications including the
5 residency qualification as set forth in the Revised Organic
6 Act Section 6B.

7 He lived here. He voted here. He worked here.
8 He paid his taxes here. He registered his children in
9 school here. He filed a custody action here. Even the
10 persons who submit that he is not a bona fide resident of
11 the Virgin Islands during the applicable time submitted
12 testimony to prove that he was here. There's no question
13 about that.

14 The real question is what do we do with the
15 bankruptcy petition and the related lawsuit that was filed
16 in Tennessee during the applicable period of time.

17 The only court that has addressed this issue of
18 Senator-Elect Rodriquez' qualifications is the Superior
19 Court of the Virgin Islands - Judge Mackay. She dealt with
20 all these issues. She dealt with the bankruptcy petition,
21 the related lawsuit and all of the evidence that was
22 submitted to show that Kevin Rodriquez met the requirements
23 of residency for the the Virgin Islands. She dealt with all
24 of it. And she ultimately ruled that the evidence was
25 overwhelming or she ruled that he met the qualifications of

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1 residency here in the Virgin Islands.

2 We find ourselves grappling with the question of
3 judicial estoppel. I would submit that very few legislatures
4 ever even heard that term before it came up in this court
5 case. I would submit that very few lawyers even knew about
6 judicial estoppel. It's a doctrine that exist but it's not
7 used very often. It's a doctrine that's applicable binding
8 on the courts. It's a doctrine that has not been used
9 within legislatures. I don't know that if it's been used at
10 all and if it's been used at all, it's been used very
11 sparingly.

12 The Legislature has other concerns other than the
13 hyper-technicalities of the law. That's what the courts are
14 for. The Legislature has to consider other aspects beyond
15 just hyper-technicalities of the law. That's not to say you
16 cannot consider it; you should consider it. It is one
17 factor to be considered along with all the other factors
18 that go into addressing the question of residency.

19 But we submit the main issue before the Legislature
20 is the same issue that was before the Superior Court - the
21 only court that dealt directly with the qualifications of
22 Senator-Elect Kevin Rodriquez to be a member of the 32nd
23 Legislature.

24 The Supreme Court did not deal with those
25 qualifications directly. They took a legal position as they

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1 were obligated to do and had a right to do, to compare legal
2 documents filed in two separate matters, legal matters,
3 compared them and made a determination for legal purposes
4 that to the extent they seemed to be inconsistent to the
5 court, Kevin Rodriguez should not be able to say one thing
6 in one court system and then say another thing in another
7 legal setting.

8 We understand why they did it, but that's not the
9 factors, all the factors, that this Legislature should
10 consider. What we submit is consider the evidence that was
11 presented here today and the documents presented here today.
12 Consider fairness. That is also a part of the Legislature's
13 duties and responsibilities. Consider the four thousand
14 plus voters that voted for Kevin Rodriguez to become a
15 member of the 32nd Legislature. It is their will, the will
16 of the people, the voters that should prevail not the hyper-
17 technicalities of a legal doctrine that is very little used
18 and not binding on this Legislature.

19 We submit if you use those factors of fairness and
20 the will of the four thousand plus voters who voted for
21 Senator-Elect Kevin Rodriguez, we submit you have only one
22 choice and that is to give him a seat in the 32nd
23 Legislature to which he was elected. Thank you.

24 SENATOR RIVERA-O'REILLY: Point of inquiry -
25 Majority Leader?

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1 SENATOR JAMES: Thank you very Madam Chair.

2 Attorney Jackson good morning.

3 ATTORNEY JACKSON: Good night.

4 SENATOR JAMES: Well it's after 12:00.

5 ATTORNEY JACKSON: Oh excuse me. Good morning.

6 SENATOR JAMES: I noticed that we acted as if there
7 wasn't a hearing in the Superior Court where Judge Mackay
8 stated that she couldn't address judicial estoppel because
9 your client took the case to the Federal Court. You forget
10 that hearing?

11 ATTORNEY JACKSON: No I didn't forget that hearing.
12 It was myself on behalf of Senator-Elect Rodriquez who
13 removed the case to the District Court.

14 SENATOR JAMES: And that hearing that was supposed
15 to be in the Superior Court was about what?

16 ATTORNEY JACKSON: It was about addressing a number
17 of issues. Number one was jurisdiction. The other one was
18 whether or not at the convening of the 32nd Legislature
19 whether the Superior Court even had jurisdiction to continue
20 to make a determination once the 32nd Legislature came into
21 effect.

22 SENATOR JAMES: It had nothing to do with the
23 Supreme Court remand to the Superior Court as it relates to
24 judicial estoppel?

25 ATTORNEY JACKSON: Well that was the third issue

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1 they dealt with. But the court also gave the other issues
2 that had to be addressed as well.

3 SENATOR JAMES: I see that you just conveniently
4 left it out. The primary purpose of that hearing; I believe
5 it was on Wednesday January 11th, was to address what was
6 remanded back from the Supreme Court to the Superior Court.
7 And Judge Mackay based on what we read 'cause I wasn't
8 there. She stated well I can't deal with it now because
9 Senator Rodriquez -- Senator-Elect Rodriquez and his counsel
10 have taken the case over on the Federal side. I think
11 that's what she said.

12 ATTORNEY JACKSON: Yes I did. And we did that for a
13 very specific reason. The Revised Organic Act is a Federal
14 statute and it should be addressed, we felt, by a Federal
15 court as opposed to a territorial court. And the court
16 agreed with us.

17 SENATOR JAMES: And Judge Gomez at no point
18 addressed judicial estoppel.

19 ATTORNEY JACKSON: I believe there might have been
20 something in the opinion where he -- I thought he said
21 something about a well written opinion, but he didn't rule
22 on it.

23 SENATOR JAMES: At no point did he address judicial
24 estoppel. He spoke strictly about jurisdiction. I just want
25 to place that on the record. If I am incorrect, I stand

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1 corrected. I thank you very much Madam Chair for the point
2 of inquiry.

3 SENATOR RIVERA-O'REILLY: You are welcome.

4 Senator-Elect Kevin Rodriquez, you're recognized.

5 SENATOR-ELECT RODRIQUEZ: Good morning again
6 Senators. I'd like to take this opportunity to thank Senate
7 President Myron Jackson and the members of the 32nd
8 Legislature to offer my testimony today on behalf of my
9 residency. I know there has been a lot said, but I just
10 wanted to clear up a few misinformation.

11 I believe one of the Senators talked about my
12 relationship with Ivy Moses in which we had a friendship.
13 Even prior to me coming to HOPE, I provided HR consultation
14 to HOPE. As a matter of fact there were one or two times
15 when you do free service you get a letter at the end of the
16 year where you can file with your taxes that would say you
17 provide x, y, z hours to allow you to get that tax break and
18 for which I did.

19 Now Ivy Moses was aware of my financial situation
20 because we are very good friends. We talked about
21 everything. We talked about her problems. We talked about
22 my problems. I gave her guidance on her problems and she
23 gave me guidance on mine.

24 In our discussion as it relates to my finances,
25 there was an opportunity. She did say, you know what; I can

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1 help you. You can move to the Virgin Islands and you can
2 work for me. And forever I was grateful for that.

3 And I know we talked about why -- our problems
4 stemmed from even the beginning when I started. And I always
5 say and even employees of HOPE can say; one of the things
6 that I will always be grateful for and that's why I never
7 lashed out or really had a conversation about my concerns is
8 because I was forever grateful for the opportunity because I
9 was down and out. I was down and out.

10 In 2010 everything got crashed. I lost my
11 business. I lost my marriage. Everything just started to
12 propel, but she came at a time, a friend. She was a friend.
13 And she came at a time when I needed the assistance. So she
14 offered me the position.

15 When you talked about 1099. A 1099 is not filled
16 out by an employee. It's filled out by an employer. And if
17 in fact that I had a conversation in which I had two
18 witnesses who can attest that I in fact informed Ms. Moses
19 to change my address. That should have been done. It was
20 Ms. Moses responsibility to change the address. And now Ms.
21 Moses went to court and she held the document up and I
22 should have thought and probably my legal defense should
23 have brought to the court's attention a 1099 is not filled
24 out by an employee; it's filled out by employer. We failed
25 to do that.

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1 But I want to go one step further. I came to work
2 at the Legislature and if I was living or residing in
3 Nashville, Tennessee, my Nashville Tennessee would have been
4 in my personnel documents at the Legislature of the Virgin
5 Islands.

6 I know Ms. Sarauw talked about a conversation at
7 Virgin Haven and that's in fact that's what happened. We did
8 have a conversation. We talked about -- she showed me an
9 email, some anonymous email that was sent to her. We even
10 took a picture. We had a picture. I believe I still have it
11 in my phone. A few pictures.

12 I don't have any animosity against Ms. Sarauw.
13 However I believe then and now that Ms. Sarauw is not
14 forthcoming relative to the knowledge of the question of my
15 residency. Had Ms. Sarauw had won, Ms. Sarauw would not have
16 brought this forward.

17 Now there's a case. I want to bring a case for your
18 review or edification. Daniel versus Board of Election.
19 That's a very good case. You cannot -- if you knowingly know
20 of a situation, refuse to bring it because you may think you
21 win and then you don't win and you want to bring it, I want
22 you to review that case because that is case law that
23 address that issue.

24 Ms. Moses also knew that I filed for custody of my
25 children because she allowed me to go to Tennessee. I flew

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1 into Tennessee one day, went to the vital statistic office
2 because as a requirement to request custody, I have to prove
3 that I am the father so I needed original birth
4 certificates. And my sister could attest because I do have
5 copies and they did not want copies. They said well keep
6 this copy, but you have to come back with an original. So
7 Ms. Moses gave me permission. I went to Tennessee. I flew
8 in. I got the birth certificate and I returned. Then I
9 produced them to the court.

10 Every week and I wish Ms. Penn was here, but every
11 week I filled out a timesheet. I wish I had my laptop -- at
12 HOPE Inc working from 8 to 5. I filled out a timesheet
13 signed by my supervisor, then given to the payroll person to
14 do -- to provide me with a check, biweekly. It wasn't
15 biweekly; it was a monthly check. And then we went biweekly
16 because of the months it was tough to be without a check for
17 a whole month. So then we decided to do, I think it was
18 weekly. So I went in the same schedule as the regular
19 full-time employees. I received all the benefits as a
20 full-time employee with the exception of insurance.

21 Ms. Moses talked about my lack of not fulfilling my
22 obligation. It is quite ironic because if you ask the
23 community, people thought that I was the CEO of HOPE because
24 I was the one that was out there promoting HOPE. I was the
25 one when HOPE was failing in making fundraisers, I was the

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1 one that brought some credibility to HOPE. And like I
2 mentioned to Ivy I said when we had our confrontation; no
3 one likes you. If it is wasn't for myself and Ms. Penn we
4 would not move forward and no one would contribute to this
5 organization because of your cantankerous and disrespectful
6 behavior. We had that conversation and I hope she can
7 confirm that because that was the conversation I had with
8 Ms. Hope -- I mean with Ivy Moses.

9 SENATOR HANSEN: Mr. President --

10 SENATOR JACKSON: Let him finish.

11 SENATOR HANSEN: May I be recognized?

12 SENATOR JACKSON: After he is completed.

13 SENATOR-ELECT RODRIQUEZ: Ms. Moses also know about
14 my bankruptcy because we had a friendship and she know my
15 intricacies of my personal life. And I know her intricacies
16 of her personal life.

17 Also with my taxes she knew. She knew. And I want
18 to clarify with my taxes. Yes I did file taxes in
19 Nashville, Tennessee; not Nashville Tennessee in St. Thomas
20 Virgin Islands bearing my address, but I needed it for the
21 court. And I was up there and that transaction was done and
22 then in 2013 -- I just wanted to say that yes I did file my
23 taxes in the Virgin Islands. I needed those taxes to be
24 given to the bankruptcy attorney as a condition because
25 that is one of the things that they needed to file my taxes

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1 in Nashville, Tennessee. And so they had my 2013, '14 and
2 '15 taxes.

3 Now one of the things the methodology that Judge
4 Mackay used was the totality of the circumstance. And the
5 reason why she deem that I was a resident is when you look
6 at the circumstance, one action where there's overwhelming
7 indication that my intention living, working, paying my
8 taxes here, voting here overweigh one action and that's why
9 she indicated that I was a resident of the Virgin Islands.

10 I know this is a lot. And I know we've been down a
11 long road. And many feelings have gotten hurt and many
12 families have gotten hurt. But I say today to this Body
13 that Ms. Moses knew of my intricacies and therefore she
14 should have informed the Board of Election if she wanted to.
15 And she did not. My bankruptcy was not an issue. That
16 anonymous email transcended because even when you look at
17 the information from the Daily News it said -- from Ms.
18 Berry's information that Ivy Moses can provide 1099 which
19 she can produce and testify of. So therefore there had to
20 have been a conversation to be had prior to us moving
21 forward with any case.

22 MS. MOSES: For the record --

23 SENATOR JACKSON: Ms. Moses?

24 MS. MOSES: I'm very happy that Mr. Rodriguez is
25 putting on the record how wonderful of a person Ivy Moses

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1 is, after trying to slander Ivy Moses' name earlier. One.
2 Number Two. Before, oh my gosh, I don't even know when, way
3 after the elections, was the first I ever had a conversation
4 with Ms. Berry. Number Three. I never sent anybody an
5 email about bankruptcies from Mr. Kevin Rodriguez. So I
6 would really appreciate it if he would stop trying to
7 slander my name in the Territory of the United States Virgin
8 Islands just to try to get ahead and get into the fifteenth
9 seat of the St. Thomas/St. John District.

10 SENATOR JACKSON: Ms. Moses thank you very much.
11 The testifiers have provided their final words. I want to
12 thank all the testifiers that have come before us this
13 evening. I know that it was short order for many of you and
14 the testimonies that you've provided.

15 Colleagues I want to thank all of you for the
16 process; that we made it through this process. We did not
17 agree, but this is a deliberative Body. And we will
18 continue our deliberations tomorrow. So this committee is in
19 recess until tomorrow.
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CERTIFICATE

I, VERNA TURNBULL-CARTY, Legislative Reporter do hereby certify that proceedings of the Regular Session (Committee of the Whole) - Part 5 held on June 27, 2017 at the Earle B. Ottley Legislative Hall, St. Thomas, U.S. Virgin Islands is a true and accurate transcription by me.

IN WITNESS WHEREOF, I have subscribed my hand this 7th, day of July, 2017.

Verna Turnbull-Carty